

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

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| CARIDAD PASTOR Plaintiff, v. DISCOVER BANK Defendant. | <u>COMPLAINT AND JURY DEMAND</u> |
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COMPLAINT AND JURY DEMAND

Caridad Pastor states the following claims for relief:

JURISDICTION

1. Jurisdiction of this Court arises pursuant to 47 U.S.C. § 227 (c)(5).
2. This action arises out of Defendants' violations of the Telephone Consumer Protection Act ("TCPA") in its illegal efforts to collect a consumer debt.
3. Venue is proper in this Court because the acts and transactions occurred here, Plaintiff resides here, and Defendant transacts business here.

PARTIES

4. The Plaintiff to this lawsuit is Caridad Pastor who resides in Royal Oak, Michigan.
5. The Defendant to this lawsuit is Discover Bank, a credit card company.

FACTUAL ALLEGATIONS

6. Plaintiff applied for and used a Discover More credit card in 2008.
7. Within the past four years, Plaintiff has received numerous calls to her cell phone 248-941-2028 from Defendant.

8. When Defendant called Plaintiff's cell phones, it used equipment that has capacity to make autodialed calls.
9. At times, when Defendant called Plaintiff, it would leave pre-recorded or artificial voicemail messages on her cellphone.
10. On information and belief, at no time, did Plaintiff provide prior express permission for anyone to call her cell phone and leave prerecorded or artificial voice messages or use equipment that has the capacity to auto dial.
11. Plaintiff is aware of the receipt of the following calls to her cell:
 - 11/26/08 4:43 pm 1 minute
 - 11/26/08 4:43 pm 1 minute
 - 11/29/08 11:58 am 1 minute
 - 11/24/08 5:09 pm 1 minute
 - 8/20/09 7:03 am 1 minute
 - 8/29/09 10:49 am 3 minutes
 - 7/14/09 9:44 am 2 minutes
 - 7/18/09 4:45 pm 3 minutes
 - 9/28/09 4:08 pm 4 minutes
 - 11/03/09 10:14 am 1 minute
 - 10/27/09 6:18 pm 5 minutes
 - 12/10/09 9:52 am 3 minutes
 - 12/10/09 12:28 pm 2 minutes
 - 12/07/09 12:30 pm 1 minute

12. On information and belief, in addition to the calls received by Plaintiff in ¶ 11, Defendant called Plaintiff's cell phone at other times for which Plaintiff does not have a record.
13. Plaintiff seeks damages for each and every call to her cell phone, not simply those in which Plaintiff has evidence of receipt.

CAUSES OF ACTION

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. § 227

14. Plaintiff incorporates by reference all paragraphs of this Complaint as though fully stated herein.
15. On information and belief, Defendant used an automatic telephone dialing system as defined by 47 USC § 227 (a)(1) when it made each and every call to Plaintiffs cell phone in the last four years.
16. On information and belief, Defendant did not have Plaintiff's prior express permission prior to contacting Plaintiff on her cell phone using an automatic telephone dialing system.
17. Defendant made the calls to Plaintiff willfully.
18. Defendant made the calls to Plaintiff knowingly.
19. Defendant's acts in making the calls to Plaintiff were not accidental.
20. Plaintiff has been damaged by the above acts.

WHEREFORE, Plaintiff prays that judgment be entered against each and every Defendant.

TRIAL BY JURY

Plaintiffs are entitled to and hereby respectfully demand a trial by jury. US Const. Amend. 7. Fed.R.Civ.P. 38.

**COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT
47 U.S.C. §227**

- damages pursuant to 47 U.S.C. § 227 (b)(3)(B) for each and every call in the amount of at least \$500 for each such act that this Court finds were not made willfully or not made knowingly;
- damages pursuant to 47 U.S.C. § 227 (b)(3)(B) for each and every call in the amount of \$1,500 for each such act that this Court finds were made willfully or were made knowingly; and
- such other relief as the Court may deem just and proper.

Dated: March 8, 2012

Respectfully submitted,
Andrew L. Campbell

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